

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Levy

Art Unit: 2623

Application No: 10/797,920

Confirmation No.: 3347

Filed: March 9, 2004

VIA ELECTRONIC FILING

For: METHOD AND APPARATUS FOR
CONTENT IDENTIFICATION/CONTROL

Examiner: Stanley, Mark P.

Date: July 21, 2009

RESPONSE AFTER FINAL

Sir,

The Office issued a Final Rejection on April 21, 2009.

The Final status of that rejection is believed improper, as it introduces a new ground of rejection that is neither necessitated by applicant's amendment, nor based on information submitted in an IDS.

In particular, the Office has introduced a new ground of rejection of claims 11, 14, 15 and 18 – rejecting these claims for the first time under Section 101.

Such a Final Rejection is contrary to Office policy set forth in MPEP 706.07(a).

That section states:

**706.07(a) Final Rejection, When Proper
on Second Action [R-6]**

Due to the change in practice as affecting final rejections, older decisions on questions of premature-ness of final rejection or admission of subsequent amendments do not necessarily reflect present practice.

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the